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AZ CORP COMMISSION
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Chairman

JIM IRVIN

Commissioner

WILLIAM A. MUNDELL

Commissioner

IN THE MATTER OF THE APPLICATION OF) DOCKET NO. E-01933A-98-0471
 TUCSON ELECTRIC POWER COMPANY FOR)
 APPROVAL OF ITS STRANDED COST)
 RECOVERY AND FOR RELATED APPROVALS,)
 AUTHORIZATIONS AND WAIVERS.)

IN THE MATTER OF THE FILING OF TUCSON) DOCKET NO. E-01933A-97-0772
 ELECTRIC POWER COMPANY OF)
 UNBUNDLED TARIFFS PURSUANT TO A.A.C.)
 R14-2-1602 *et seq.*)

TUCSON ELECTRIC POWER COMPANY) DOCKET NO. E-01933A-99-0729
 APPLICATION FOR APPROVAL OF ITS)
 PROPOSED DIRECT ACCESS SERVICE FEES)
 AND ITS PROPOSED AMENDMENTS TO ITS)
 RULES AND REGULATIONS)

IN THE MATTER OF THE COMPETITION IN) DOCKET NO. RE-00000C-94-0165
 THE PROVISION OF ELECTRIC SERVICES)
 THROUGHOUT THE STATE OF ARIZONA.) **RESPONSE TO PETITION FOR**
DECLARATORY ORDER OR
WAIVER

Tucson Electric Power Company ("TEP" or "Company"), through undersigned counsel,
 hereby responds to the "Petition for Declaratory Order or Waiver" ("Petition") filed by APS Energy
 Services Corporation, Inc. ("APSES"), in the dockets captioned above, as follows:

The Petition is a thinly-masked attempt by APSES to circumvent true competition by asking
 the Commission to, in this singular instance, interpret or modify its rules in favor of APSES' own
 marketing plans and schedules.¹ APSES does not (nor in good faith could it) claim that TEP has

¹ In reality, APSES lacks standing to assert claims that are actually tariff issues between TEP and its
 customer, the University of Arizona. APSES' newly assumed role as surrogate petitioner for the

1 violated any Commission rule or regulation. Indeed, the Petition is not a formal complaint. See
2 A.A.C. R14-3-106.A; R14-3-106.L. The Petition is not a request that a rule-making proceeding be
3 conducted to modify the existing competition rules applicable to all electric utilities in the state.
4 Instead, APSES has crafted a pleading of its own devise, the Petition, that is targeted at TEP and is
5 intended to change the operation of the Commission's Competition Rules, only as they would apply
6 to APSES servicing portions of the load at the University of Arizona.
7
8

9 APSES does not want to engage in competition by the Commission's Competition Rules, it
10 wants to do so by its **own** rules. Suspiciously, the Petition does not request that the Commission
11 hold any type of evidentiary hearing or rulemaking proceeding to resolve the issues raised in the
12 Petition. Instead, APSES would have the Commission rule solely based upon the Petition.
13

14 However, TEP has a different view of how it must operate in connection with the two issues
15 raised in the Petition: (1) totalization of meters (TEP believes that absent a tariff for metering or
16 billing totalization, totalization is prohibited. Contrary to APS, TEP does not have a totalization
17 tariff); and (2) direct access metering (TEP believes that each premises should be metered
18 separately). The time and place for submitting the evidence in support of the parties' differing
19 views, and to resolve them, is in a formal complaint proceeding or, alternatively, a rule-making
20 proceeding.
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22

23 The Commission should be wary of the Petition, and any other attempt by APSES or
24 another Energy Service Provider ("ESP"), to manipulate the Competition Rules on a piecemeal
25 basis under the color of "enhancing competition". The precedent that the Commission sets in this
26
27

28
29 University of Arizona is further evidence that APSES is trying to manipulate the Competition Rules
30 to its own marketing advantage, in contradiction to the benefits of market-place competition.

1 case will have a very real impact on a myriad of Competition Rules and established Direct Access
2 Service Request ("DASR") procedures.

3
4 TEP has met, and will continue to meet, with APSES to attempt to resolve the issues in the
5 Petition. However, in the event that the parties can not resolve the issues raised in the Petition
6 among themselves, then TEP respectfully requests that the Commission set an evidentiary hearing
7 (in the form of a formal complaint proceeding) and establish a procedural schedule for discovery and
8 the filing of testimony in connection therewith; or, in the alternative, initiate rule-making
9 proceedings to change the Competition Rules for all utilities doing business in this state. However,
10 under no circumstances should the Commission set the dangerous precedent of changing the
11 Competition Rules based upon the mere filing of a "Petition" by an ESP.
12

13
14 RESPECTFULLY SUBMITTED this 9th day of June, 2000.

15
16 ROSHKA HEYMAN & DEWULF, PLC

17
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26
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30

1 **Original and 10 copies of the foregoing**
2 **filed this 9th day of June, 2000, with:**

3 Docket Control
4 ARIZONA CORPORATION COMMISSION
5 1200 West Washington Street
6 Phoenix, Arizona 85007

6 **Copy of the foregoing hand-delivered**
7 **this 9th day of June, 2000, to:**

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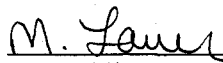
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